IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 22ND FEBRUARY 2007 / 3RD PHALGUNA 1928

Crl.MC.No. 467 of 2007()

AGAINST THE ORDER DATED 15/02/2007 IN CRMP 468/2007 IN
CRA.132/2007 of SESSIONS COURT, TRIVANDRUM
CC.934/2004 of JUDL. MAGISTRATE OF FIRST CLASS COURT-I, ATTINGAL

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PETITIONER: PETITIONER/APPELLANT

VIJAYA LEKSHMI, D/O.LAKSHMIKUTTY AMMA,
VARIKKATTU VEEDU (JAYA BHAVAN), ATTAKULAM,
ATTINGAL.P.O, THIRUVANANTHAPURAM.

BY ADV. SRI.M.SREEKUMAR
SRI.THOUFEEK AHAMED

RESPONDENTS: COUNTER PETITIONERS/RESPONDENTS

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1. SREEKANTAN NAIR, S/O.UNNIKRISHNAN NAIR,
KALIYILPURA VEEDU AZHOOR, AZHOOR VILLAGE,
THIRUVANANTHAPURAM.

2. STATE OF KERALA, REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U.NAZER

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 22/02/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.467 of 2007

Dated this the 22nd day of February, 2007

ORDER

The petitioner, a woman, has been found guilty, convicted and sentenced in a prosecution under Section 138 of the N.I Act. She preferred an appeal before the learned Sessions Judge.

2. The learned Sessions Judge by the impugned order directed suspension of sentence subject to conditions. There is a condition that the petitioner must deposit an amount of Rs.50,000/- out of the compensation amount of Rs.3.5 lakhs.

3. The petitioner has come before this Court to assail the said order. The jurisdictional competence of the Sessions Judge, to impose such a condition for suspension of sentence, is not challenged. The judgment of the trial court is produced. On going through the judgment, I am satisfied, that it cannot be held that the direction for payment is unjustified, on the nature of the challenge which is raised in the appeal.

4. The only contention that appeals to me is that the learned Sessions Judge has not granted any time for the petitioner to make payment of the amount of Rs.50,000/-. I am satisfied that in the fitness of things and in fairness, the petitioner must be granted two months' time to make the payment and avoid the predicament of the sentence being executed even while the appeal is pending.

5. In the result, this Crl.M.C is, allowed in part. The petitioner shall execute the bond within 15 days, but shall have time till 13.04.2007 to deposit the amount of Rs.50,000/-. If the petitioner is unable to raise that amount, he shall within 15 days from this date, file an application before the learned Sessions Judge for expeditious disposal of the appeal itself and in such even t, the learned Sessions Judge shall ensure that the appeal itself is disposed of by 13.04.2007.

(R.BASANT, JUDGE)

rtr/-